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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

15 KPG INVESTMENTS, INC., et al.,

16 Plaintiff,

17 vs.

18 MARLENA SONN, et al.,

19 Defendant.

Case No. 3:22-CV-00236-ART-CLB
c/w Case No. 3:22-CV-00323 ART-CLB

**DEFENDANTS ALEXANDRA SARAH
GETTY AND ASG INVESTMENTS,
INC.'S REPLY IN SUPPORT OF MOTION
FOR LEAVE TO FILE UNDER SEAL
EXHIBITS TO REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION TO
DISMISS**

Defendants Alexandra Sarah Getty (“ASG”) and ASG Investments, Inc. (“ASG Investments”) (collectively “ASG Defendants”), by and through their counsel of record, submit this Reply to Plaintiff Marlena Sonn’s Opposition to Defendants Alexandra Sarah Getty and ASG Investments, Inc.’s Motion to File Under Seal Exhibits to ASG Defendants’ Request for Judicial Notice. ECF No. 63.

This Reply is based on the following memorandum of points and authorities, the Court’s record of this action; and all other matters of which the Court may take notice.

MEMORANDUM OF POINTS AND AUTHORITIES

In her Opposition to Defendants Alexandra Sarah Getty and ASG Investments, Inc.’s Motion To File Under Seal Exhibits to ASG Defendants’ Request for Judicial Notice (ECF No. 42), Sonn asserts that the Exhibits (which consist of ASG Defendants’ confidential employment documents and email communications) should not be sealed because (i) certain information within them is already public; (ii) the Exhibits’ confidentiality provisions do not warrant sealing; and (iii) ASG has not identified specific facts showing concrete harm to its interests if the documents were publicly disclosed. *See generally* ECF No. 63. Each of Sonn’s assertions should be rejected.

A. ASG Investments’ Confidential Employment Documents and Email Communications Have Not Been Released Publicly.

Sonn does not assert, nor could she, that the Exhibits have been publicly disclosed in their entirety. Rather, Sonn incorrectly asserts that the Exhibits should not be sealed because her pleadings “have already informed the public of the existence and material terms of these documents.” *See* ECF No. 63 at 3:21-22.¹

Sonn offers no support for her position that her improper disclosure of *portions* of confidential documents justifies and permits the broad disclosure of even more confidential portions of such documents, *which have not been publicly disclosed*. Indeed, Sonn’s cited authority is inapposite. *Victory Sports & Entertainment, LLC v. Pedraza*, 2:19-cv-826-APG-NJK,

¹ To avoid confusion, any page references are to the docket’s ECF pagination at the top of each page, rather than any pagination applied within a document.

2019 WL 2578767 (D. Nev. June 24, 2019), concerned a motion to retroactively seal a complaint that had been filed *in its entirety* on the public docket, *for weeks*.

As set forth in ASG Defendants’ Motion to Seal, the Exhibits at issue consist of documents that are confidential in nature, and/or contain confidential information regarding the corporate structure, finances, and business strategies of ASG Investments, Inc. (“ASG Investments”) and/or the Pleiades Trust *beyond that which Sonn has already disclosed*. ECF No. 42 at 3:13-16. Sonn’s (improper) disclosure of select portions of the confidential Exhibits, such as the amount of compensation called for in her Employment Agreement (*see* ECF No. 63 at 3:23 – 4:11), does not justify the disclosure of further confidential information.

B. Compelling Reasons Exist to Preserve The Confidentiality of ASG Investments’ Confidential Employment Documents and Emails.

First, Sonn’s argument that a confidentiality clause alone is insufficient to justify sealing (ECF No. 63 at 7:21) is misplaced. As set forth in ASG Defendants’ Motion to Seal, in addition to explicit confidentiality provisions, the Exhibits contain confidential information regarding the corporate structure, finances, and business strategies of ASG Investments and the Pleiades Trust. *See* ECF No. 42 at 3:13-16.

Second, to the extent Sonn argues ASG Defendants’ Motion to Seal “provide[s] only conclusory statements” (ECF No. 63 at 8:20), Sonn is mistaken. ASG Defendants specifically explain how preserving the confidentiality of sensitive business and financial information related to ASG Investments and the Pleiades Trust is critical, given Sonn’s history of maliciously breaching her confidentiality obligations to the detriment of ASG Defendants, including by attempting to use the press and broadly disclosing sensitive confidential information to a reporter at *The New Yorker Magazine*. *See* ECF No. 42 at 3:4-12.

ASG Defendants have adequately shown “compelling reasons” sufficient to justify sealing the Exhibits. *See* ECF No. 42 at 2; *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

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CONCLUSION

For all the of the foregoing reasons and as set forth in the moving papers, ASG Defendants respectfully request that the Court issue an order permitting the filing of Exhibits A – C to ASG Defendants’ Request For Judicial Notice (ECF No. 45) under seal.

DATED: March 22, 2023

PAUL HASTINGS LLP
in association with
LEMONS, GRUNDY & EISENBERG

By: /s/ Ryan D. Derry
RYAN D. DERRY, *Pro Hac Vice*

Attorneys for Defendants,
ALEXANDRA SARAH GETTY and
ASG INVESTMENTS, INC.

CERTIFICATE OF SERVICE

I am a citizen of the United States. I am over the age of 18 years and not a party to the within action. On March 22, 2023, following the ordinary business practice, I electronically filed and served through the CM/ECF program the foregoing document to the addressee(s) listed below described as *Defendants Alexandra Sarah Getty and ASG Investments, Inc.'s Reply in Support of Motion for Leave to File Under Seal Exhibits to Request for Judicial Notice in Support of Motion to Dismiss*

✓ **BY MAIL:** in an envelope with postage thereon fully prepaid to be placed in the U.S. Mail at Reno, Nevada to the following:

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✓ **BY ELECTRONIC SERVICE:** the court to electronically serve the following individual(s):

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12 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
13 is true and correct.

14 /s/ Margie Nevin
15 Margie Nevin
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